

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**ANYWHERECOMMERCE, INC. and  
BBPOS LIMITED,**

**Plaintiffs,**

**v.**

**INGENICO, INC., INGENICO CORP.,  
INGENICO GROUP, SA, and INGENICO  
VENURES SAS,**

**Defendants.**

**Civil Docket No: 1:19-cv-11457-IT**

**JOINT MOTION FOR LEAVE TO AMEND THE SCHEDULING ORDER  
AND JOINT REPORT ON DISCOVERY STATUS**

This is the joint motion of Plaintiffs and Defendants (collectively, the “Parties”) for leave to amend the current deadlines set forth in the Court’s January 25, 2021 Scheduling Order. *See* ECF No. 136. This is the Parties’ fourth motion to amend any of the discovery deadlines in this action.

In support hereof, the Parties state as follows:

1. By order dated November 27, 2019, the Court established a fact discovery cut-off of June 30, 2020, and a deadline to file dispositive motions of November 29, 2020. On March 23, 2020, the parties filed a Stipulated Motion to Modify Case Schedule requesting that, because of the need for international discovery and complications resulting from the COVID-19 pandemic, the Court extend the deadlines to conduct fact discovery and to file dispositive motions by 90 days (Dkt No. 97).

2. As discussed in that prior stipulated motion to extend discovery, the parties are located in various countries around the world, including Canada, France, and Hong Kong.

Accordingly, the parties anticipate needing to obtain discovery (both written and oral) from those countries, from the parties themselves and potentially third parties as well. Even before COVID-19, such discovery could have taken several months to complete. The stipulated motion also advised that, given the uncertainty relating to COVID-19, further extensions may become necessary. The Court granted that stipulated motion (Dkt. No. 98). The parties filed a Second Stipulated Motion seeking permission to extend deadlines an additional 180 days, which was granted.

3. In addition, the parties had filed briefs concerning the effect of the GDPR on Defendants' discovery obligations in this Court. On August 31, 2020, the Court ruled upon the Motion to Compel Production of Documents, which facilitated the progress of discovery (Dkt. No. 118). The Court's August 31, 2020 Order resolved the parties' GDPR-based disagreement and ordered Defendants Ingenico Inc. and Ingenico Corp. to produce documents located in the United States.

4. On December 4, 2020, Plaintiffs moved the Court to reconsider its August 31, 2020 Order concerning the effect of GDPR on the Defendants' discovery obligations. Plaintiffs moved the Court to order that GDPR (and its French analogue) do not bind Defendants in this matter. *See* ECF No. 125-1. In opposition, Defendants argued that if the Court reconsiders its August 31, 2020 Order, it would be more appropriate to only order Defendants to compel the production of documents belonging to all of the custodians identified in the parties' initial disclosures. *See* ECF No. 129. The Court has yet to rule on Plaintiff's Motion for Reconsideration.

5. Since the Court's August 31, 2020 Order, both Plaintiffs and Defendants have produced hundreds of thousands of responsive documents, with Defendants most recently serving a large production of documents on April 16, 2021. At this point, both parties' review of responsive

documents is substantially complete, subject to the Court's ruling on the Motion for Reconsideration. No party has taken nor scheduled any depositions.

6. Given the current status of discovery and the issues regarding international discovery, the parties estimate that they will require at least an additional 90 days of fact discovery, and likely more in the event the Court grants Plaintiff's Motion for Reconsideration.

7. The Parties' respectfully move the Court to modify the case schedule as follows:

	Current Dates	Proposed Revised Dates (+90 days)
Fact Discovery Complete	June 28, 2021	September 28, 2021
Dispositive Motions	November 24, 2021	February 24, 2022

WHEREFORE, based on the foregoing, the Parties respectfully request that their Joint Motion be ALLOWED.

Dated: May 17, 2021

Defendants Ingenico Inc., Ingenico Corp., and  
Ingenico Group SA,

By their attorneys,

/s/ William K. Wray

JOHN A. TARANTINO (BBO #492230)  
PATRICIA K. ROCHA (BBO #542348)  
WILLIAM K. WRAY, JR. (BBO #689037)  
Adler Pollock & Sheehan P.C.  
One Citizens Plaza, 8<sup>th</sup> Floor  
Providence, RI 02903  
Tel: (401) 274-7200  
Fax: (401) 351-4607  
jtarantino@apslaw.com  
procha@apslaw.com  
wwray@apslaw.com

Plaintiffs AnywhereCommerce, Inc.  
and BBPOS Limited,

By their attorneys,

/s/ Melissa A. Bozeman

MELISSA A. BOZEMAN  
OLIVER D. GRIFFIN  
PETER N. KESSLER  
Kutak Rock LLP  
1760 Market Street, Suite 1100  
Philadelphia, PA 19103  
Tel: (215) 288-4384  
Fax: (215) 981-0719  
[Melissa.bozeman@kutakrock.com](mailto:Melissa.bozeman@kutakrock.com)  
[Oliver.griffin@kutakrock.com](mailto:Oliver.griffin@kutakrock.com)  
[Peter.kessler@kutakrock.com](mailto:Peter.kessler@kutakrock.com)

DANIEL CARMELI  
Kutak Rock LLP  
1801 California Street, Suite 3000  
Denver, Colorado 80202  
Tel: (303) 297-2400  
Fax: (303) 292-7799  
[Daniel.carmeli@kutakrock.com](mailto:Daniel.carmeli@kutakrock.com)

JONATHON D. FRIEDMANN  
ROBERT P. RUDOLPH  
Rudolph Friedmann LLP  
92 State Street  
Boston, MA 02109  
Tel: (617) 723-7700  
Fax: (617) 227-0313  
[jfriedmann@rflawyers.com](mailto:jfriedmann@rflawyers.com)  
[rudolph@rflawyers.com](mailto:rudolph@rflawyers.com)

RICARDO G. CEDILLO  
Davis, Cedillo & Mendoza, Inc.  
755 E. Mulberry Ave., Ste 500  
San Antonio, Texas 78212  
Tel: (210) 822-6666  
Fax: (210) 822-1151  
[rcedillo@lawdcm.com](mailto:rcedillo@lawdcm.com)

IT IS SO ORDERED:

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The Honorable Indira Talwani  
United States District Court for the District of Massachusetts

DATED:

**CERTIFICATE OF SERVICE**

I, Melissa A. Bozeman, hereby certify that this Joint Motion to Amend, filed through the CM/ECF system, will be sent electronically to the registered participants as identified on the NEF (NEF) on May 17, 2021.

/s/ Melissa A. Bozeman  
Melissa A. Bozeman